COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

FIRST TO Hundredth REPORTS

(ENGLISH VERSION)

Third LOK SABHA

Legislative Branch-II

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

THIRD REPORT

(Third Lok Sabha)

I, the Chairman of the Committee on Private Members' Bills and Resolutions having been authorised by the Committee, present on their behalf, this their Third Report.

2. The Committee met on the 15th June, 1962 for—

(1) Classification and allocation of time for discussion of the Bills *(vide* Appendix I).

(2) Examination of the following Bills under Rule 294 (1) (a) of the Rules of Procedure seeking to amend the Constitution—

(i) Constitution (Amendment) Bill (*Amendment of Articles* 100 *and* 189) by Shri M. L. Dwivedi. (*vide* Appendix II),

(ii) Constitution (Amendment) Bill (*Amendment of Articles* 136, 226, 227, 228 *and* 329) by Shri Shree Narayan Das.

(iii) Constitution (Amendment) Bill (*Amendment of Article* 324) by Shri Shree Narayan Das.

(iv) Constitution (Amendment) Bill (*Amendment of Article* 226) by Shri Diwan Chand Sharma (*vide* Appendix III).

(v) Constitution (Amendment) Bill (*Amendment of the Eighth Schedule*) by Shri U. M. Trivedi (*vide* Appendix IV).

Classification and allocation of time to Bills

3. The Members concerned had been invited to present before the Committee their views on their Bills. Sarvashri J. B. S. Bist, Naval Prabhakar and S. M. Siddiah (who is also a Member of the Committee) attended the sitting.

4. After considering all aspects of the Bills, the Committee placed all the Bills in category 'B' and allotted time for each of the Bills as shown in column 5 of Appendix I.

Examination of the Constitution (Amendment) Bills

5. The Members who had given notices of the Bills and representatives of the Ministries concerned with the Bills had been invited to be present at the sitting, but none of the Members concerned attended the sitting. The representatives of the Ministries of Law and Home Affairs and Department of Parliamentary Affairs were present.

6. The Committee considered the Bills and the reactions of the Government thereto and examined the Bills in the light of the principles laid down in paragraph 6 of the First Report of the Committee on Private Members' Bills and Resolutions of the First Lok Sabha which had been duly approved by the House. The Committee arrived at the following findings as a result of their examination of the Bills :—

Findings of the Committee

(a) Constitution (Amendment) Bill (*Amendment of Articles* 100 *and* 189) by Shri M. L. Dwivedi.

The Bill seeks to amend Articles 100 and 189 of the Constitution dealing with quorum in Parliament and State Legislatures.

The Committee recommended that the Bill might be allowed to be introduced.

(b) Constitution (Amendment) Bill (*Amendment of Articles* 136, 226, 227, 228 *and* 329) by Shri Shree Narayan Das.

[P.T.O.

The Committee postponed the consideration of the Bill to the next sitting.

(c) Constitution (Amendment) Bill (*Amendment of Article* 324) by Shri Shree Narayan Das.

The Bill sought to insert new Article 324A after article 324 of the Constitution so as to provide for extension of functions of the Election Commission to the superintendence, direction and control of elections to various local authorities.

After hearing the views of the representative of the Ministry of Law and considering all aspects of the Bill, the Committee were of the opinion that the Bill be not allowed to be introduced.

(d) Constitution (Amendment) Bill (*Amendment of Article* 226) by Shri Diwan Chand Sharma.

The Bill sought to add a proviso to Article 226 (1) so as to enable the High Court of any State to issue any direction or writ in respect of any order passed by any authority inside the State, whether such order has been dealt with in appeal or revision by any authority outside the State or not.

After hearing the views of the representative of the Ministry of Law, the Committee recommended that the Bill be allowed to be introduced.

(e) Constitution (Amendment) Bill (*Amendment of the Eighth Schedule*) by Shri U. M. Trivedi.

The Bill sought to include 'Sindhi' in the Eighth Schedule to the Constitution.

After hearing the views of the representative of the Ministry of Home Affairs, the Committee recommended that the Bill be allowed to be introduced.

Recommendations

7. The Committee recommend—

(i) that the classification and allocation of time to Bills by the Committee as shown in Appendix I be agreed to by the House;

(ii) that the following Bills seeking to amend the Constitution be allowed to be introduced:—

(a) Constitution (Amendment) Bill (*Amendment of Articles* 100 *and* 189) by Shri M. L. Dwivedi;

(b) Constitution (Amendment) Bill (*Amendment of Article* 226) by Shri Diwan Chand Sharma;

(c) Constitution (Amendment) Bill (*Amendment of the Eighth Schedule*) by Shri U. M. Trivedi; and

(iii) that the Constitution (Amendment) Bill (*Amendment of Article* 324) by Shri Shree Narayan Das be not allowed to be introduced.

NEW DELHI;
June 18, 1962
Jyaistha 28, 1884 (*Saka*)

S. V. KRISHNAMOORTHY RAO

APPENDIX I

Sl. No.	Name of the Bill and the Member incharge	Bill No.	Category allotted	Time allotted by the Committee
1	2	3	4	5
1	Civil Aviation (Licensing) Bill by Shri J. B. S. Bist	14 of 1962	B	2 hours
2	Code of Civil Procedure (Amendment) Bill (*Omission of section 87 B*) by Shri M. L. Dwivedi	23 of 1962	B	1½ hours
3	Hoarding and Profiteering Prevention Bill by Shri M. L. Dwivedi	33 of 1962	B	2 hours
4	Coir Industry (Amendment) Bill (*Amendment of sections 10, 20, 21 and 26*) by Shri Satis Chandra Samanta	28 of 1962	B	1 hour
5	Film Industry Workers (Improvement of Working Conditions) Bill by Shri J. B. S. Bist	32 of 1962	B	1 hour
6	Hindu Succession (Amendment) Bill (*Insertion of new section 23A*) by Shri J. B. S. Bist	18 of 1962	B	1 hour
7	Commissions of Inquiry (Amendment) Bill (*Amendment of section 8*) by Shri Diwan Chand Sharma	15 of 1962	B	1 hour
8	Indian Penal Code (Amendment) Bill (*Amendment of section 300*) by Shri Diwan Chand Sharma	20 of 1962	B	1 hour
9	Banking Companies (Amendment) Bill (*Amendment of section 36 and insertion of new section 53A*) by Shri Diwan Chand Sharma	12 of 1962	B	1½ hours
10	Gift-tax (Amendment) Bill (*Amendment of sections 22, 23, 25, 26 and 35*) by Shri Diwan Chand Sharma	27 of 1962	B	1½ hours
11	Foreign Exchange Regulation (Amendment) Bill (*Amendment of sections 2 and 23 and omission of section 19A etc.*) by Shri Diwan Chand Sharma	29 of 1962	B	1½ hours
12	Subsidiary Banks Merger Bill by Shri Diwan Chand Sharma	13 of 1962	B	1 hour
13	Industrial Disputes (Amendment) Bill (*Amendment of section 33*) by Shri Diwan Chand Sharma	26 of 1962	B	1½ hours
14	Industrial Disputes (Amendment) Bill (*Amendment of section 25*) by Shri Diwan Chand Sharma	24 of 1962	B	1 hour
15	Companies (Amendment) Bill (*Insertion of sections 438 and 439A and amendment of sections 224 and 237 etc*) by Shri Diwan Chand Sharma	25 of 1962	B	1½ hours
16	Code of Civil Procedure (Amendment) Bill (*Amendment of section 92*) by Shri Diwan Chand Sharma	17 of 1962	B	1 hour
17	Delhi Rent Control (Amendment) Bill (*Amendment of sections 14 and 30 and insertion of new section 38A*) by Shri Nawal Prabhakar	36 of 1962	B	2 hours
18	Representation of the People (Amendment) Bill (*Amendment of section 7*) by Shri Diwan Chand Sharma	38 of 1962	B	2 hours
19	Parliament Library Bill by Shri Diwan Chand Sharma	43 of 1962	B	1 hour

17.20.

1	2	3	4	5
20	Child Marriage Restraint (Amendment) Bill (*Amendment of sections 2 and 3*) by Shri Diwan Chand Sharma . .	40 of 1962	B	1 hour
21	Mines (Amendment) Bill (*Amendment of sections 12, 64, 66, 67, 70, 72C and 73*) by Shri Satis Chandra Samanta . .	41 of 1962	B	1½ hours
22	Untouchability (Offences) Amendment Bill (*Amendment of sections 3 and 4*) by Shri S. M. Siddiah	39 of 1962	B	2 hours
23	Political Sufferers Aid Bill by Shri Satis Chandra Samanta	46 of 1962	B	2 hours
24	Hindu Marriage (Amendment) Bill (*Amendment of section 23*) by Shri J. B. S. Bist .	45 of 1962	B	1½ hours

GIPND—LS I—1085 (D) LS—19-6-62—550.

APPENDIX II

Bill No. 66 of 1962

THE CONSTITUTION (AMENDMENT) BILL, 1962

By

SHRI M. L. DWIVEDI, M.P.

(TO BE INTRODUCED IN LOK SABHA)

Bill No. 66 of 1962

THE CONSTITUTION (AMENDMENT) BILL, 1962

(TO BE INTRODUCED IN LOK SABHA)

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1962. Short title.

2. In article 100 of the Constitution,— Amendment of article 100.

(i) in clause (3), for the words "Until Parliament by law otherwise provides", the words "Save as otherwise provided by rules regulating the procedure of the House" shall be substituted; and

(ii) clause (4) shall be omitted.

3. In article 189 of the Constitution,— Amendment of article 189.

(i) in clause (3), for the words "Until the Legislature of the State by law otherwise provides", the words "Save as otherwise provided by rules regulating the procedure of the House" shall be substituted; and

(ii) clause (4) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Quorum of either House of Parliament and either House of a State Legislature is governed by provisions in Articles 100 and 189 of the Constitution of India. In actual practice, it has been found that great difficulties are experienced. The Speaker of the Lok Sabha or a State Legislature, or the Chairman of the Rajya Sabha or of a State Legislative Council or a person acting as such is burdened with a duty either to adjourn the House or to suspend the meeting whenever there is no quorum. This causes difficulties in conducting the proceedings of the House. Such rigid and detailed provision in the Constitution itself ought not to be there. It is sufficient if it is provided that the quorum shall be one-tenth of the total strength of the House. The rest should be left to be regulated by rules of procedure of the House.

In order to obviate these difficulties, clauses 2 and 3 of the Bill seek to amend Articles 100 and 189 of the Constitution of India.

NEW DELHI;
The 4th April, 1962.

M. L. DWIVEDI.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* * * * *

PART V

THE UNION

CHAPTER II—PARLIAMENT

100.* * * * *

Voting in Houses, power of Houses to acts notwithstanding vacancies and quorum.

(3) Until Parliament by law otherwise provides, the quarum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.

(4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

* * * * *

PART VI

THE STATES

189.* * * * *

Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

(3) Until the Legislature of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.

(4) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such either to adjourn the House or to suspend the meeting until there is a quorum.

* * * * *

LOK SABHA

A

BILL

further to amend the Constitution of India.

(*Shri M. L. Dwivedi, M.P.*)

APPENDIX III

Bill No. 67 of 1962.

THE CONSTITUTION (AMENDMENT) BILL, 1962

By

SHRI DIWAN CHAND SHARMA, M.P.

(TO BE INTRODUCED IN LOK SABHA)

Bill No. 67 of 1962.

THE CONSTITUTION (AMENDMENT) BILL, 962

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1962. Short title.

2. In Article 226 of the Constitution, in clause (1) the following proviso shall be added at the end and shall be deemed always to have been added, namely:— Amendment of Article 226.

"Provided that nothing herein contained shall be deemed as excluding the jurisdiction of the High Court of any State in respect of any order passed by any authority inside the State, whether such order has been dealt with in appeal or revision by any authority outside the State or not."

STATEMENT OF OBJECTS AND REASONS

Judicial interpretations have differed as to the place where an application under Article 226 of the Constitution should be filed. The Madras High Court (Collector of Customs *Vs.* Abdul Rahiman A.I.R. 1957 Madras 496) has held that this jurisdiction belongs only to the Court within whose territory the appellate or revisional authority has its office, if appeal or revision has been filed. The Calcutta High Court, on the other hand, has held (East India Commercial Ltd., *Vs.* Collector of Customs and another reported in A.I.R. 1960, Calcutta at page 1) that the application can be laid wherever the original authority is situate.

In this state of uncertainty, there has been a large influx of petitions under Article 226 of the Constitution to the East Punjab High Court. Thus the remedy provided by this Article has become expensive and is fraught with delay. If an aggrieved party does not prefer an appeal as provided in the statute, the application under Article 226 is liable to be dismissed *in limine* by the High Court on the ground that all the remedies prescribed by the law have not been exhausted whereas if the party does file an appeal and it is dismissed, he is obliged to file the application under Article 226 only in the East Punjab High Court having territorial jurisdiction over Delhi. The Lawyers' Conferences held in December, 1959 in Patna and in Nagercoil in April 1960 both passed resolutions that suitable legislation should be enacted to remedy the situation.

The Law Commission also addressed itself to this matter and observed in paragraph 17 of its 14th report as follows:—

> 'High Courts other than the High Court of the Punjab have found themselves unable to exercise jurisdiction under Article 226, when the statutory authority or official concerned has headquarters in Delhi. This tends to defeat the very purpose of the jurisdiction conferred by Article 226 which is to enable a person to seek a remedy under that Article in respect of acts done in violation of his rights within the State by an application to the High Court of his own State.
>
> A later decision of the Supreme Court seems to have modified the earlier view but the matter is by no means clear.
>
> In our view this hardship imposed upon a person seeking relief needs removal".

The present Bill proposes an amendment which will serve the purpose. In order to cover pending cases it provides that the amendment be deemed as operative from the date of commencement of the Constitution.

NEW DELHI;

The 16th April, 1962.

DIWAN CHAND SHARMA.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

* * * * *

Power of High Courts to issue certain writs.

226. (1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government within those territories directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *qua warranto* and *certiorari*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred on a High Court by clause (1) shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

* * * * *

LOK SABHA

BILL

further to amend the Constitution of India.

(Shri Diwan Chand Sharma, M.P.)

APPENDIX IV

THE CONSTITUTION (AMENDMENT) BILL, 1962

By

SHRI U. M. TRIVEDI, M.P.

(TO BE INTRODUCED IN LOK SABHA)

Bill No. 68 of 1962.

THE CONSTITUTION (AMENDMENT) BILL, 1962

(TO BE INTRODUCED IN LOK SABHA)

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1962. Short title and commencement.

(*2*) It shall come into force at once.

2. In the Eighth Schedule to the Constitution, after entry 11, the following new entry shall be inserted, namely:— Amendment of Eighth Schedule.

"11A. Sindhi".

STATEMENT OF OBJECTS AND REASONS

Sindhi language is an ancient language and has a close affinity with Sanskrit by its being the language of the early Aryan settlers in the lower Indus valley. Its inclusion in the Eighth Schedule to the Constitution would fulfil the desire of two million Sindhi-speaking persons now settled in India.

NEW DELHI;
The 22nd May, 1962.

U. M. TRIVEDI.

ANNEXURE

(EXTRACTS FROM THE CONSTITUTION OF INDIA)

* * *

EIGHTH SCHEDULE

[*Articles* 344(1) *and* 351]

Languages

1. Assamese.
2. Bengali.
3. Gujarati.
4. Hindi.
5. Kannada.
6. Kashmiri.
7. Malayalam.
8. Marathi.
9. Oriya.
10. Punjabi.
11. Sanskrit.
12. Tamil.
13. Telugu.
14. Urdu.

LOK SABHA

A

BILL

further to amend the Constitution of India.

(*Shri U. M. Trivedi, M.P.*)